

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

BRACHA POLLAK,)
Plaintiff,)
) CIVIL NO.
v)
) 3:15-cv-4025-FLW-
PORTFOLIO RECOVERY)
ASSOCIATES, L.L.C., and)
JOHN DOES 1-25,)
Defendant.)

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21 APPEARANCES: Marcus Zelman (Mr. Yitzchak
22 Zelman), attorneys for the
plaintiff.

Troutman Sanders (Mr. David N. Anthony), attorneys for the defendant.

1 Q When you say managing the letter
2 process, are we talking about collection letters
3 here?

4 A Yes.

5 Q Let's back up for a second. PRA, what
6 is their principal business?

7 A PRA, LLC, is the buying arm of PRA
8 Group. So I work for PRA, LLC, which is the debt
9 buyer.

10 Q So you're talking about Portfolio
11 Recovery Associates, LLC, is the debt buyer?

12 A Yes.

13 Q Is there another branch of the company?

14 A Well, they have other -- There's other
15 subsidiaries of PRA Group.

16 Q Okay. Before coming here today, have
17 you reviewed any documents or materials in
18 preparation for today's deposition?

19 A Yes.

20 Q And I'm not asking you about what you
21 spoke about with your attorney. Obviously that would
22 be covered by attorney-client privilege. But what
23 documents did you look at?

24 A I looked at some policies and procedures
25 documents, and then I looked at the account records

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1 for the client or the customer.

2 Q We'll go through the account records in
3 this deposition, but what policies and procedures did
4 you look at?

5 A We have litigation department
6 procedures.

7 Q Do you have that here today?

8 A No.

9 Q When you say you have litigation
10 department procedures, what are we talking about? A
11 book? A pamphlet? A one-sheet piece of paper?

12 A It's a word document. I think it's PDF
13 form actually.

14 Q How big approximately in page numbers?

15 A It's probably about ninety pages.

16 Q Okay. And I haven't seen this document.
17 Obviously I'm going to request it following today's
18 deposition. But can you tell me briefly what it's
19 about? What is it? What did that give you, if
20 anything?

21 A It's actually a training guide. I might
22 have called it a policies and procedures, but I think
23 it's called a training manual, a litigation
24 department training manual. It's for the call center
25 agents that work in the litigation department, and it

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1 just sets forth the rules and requirements that they
2 have to follow when they're working the accounts that
3 are in the litigation department.

4 Q Are we just talking people managing the
5 call center or collectors in general?

6 A It's for just people in the litigation
7 department call center.

8 Q Is there a separate call center for the
9 litigation department?

10 A Yes.

11 Q Okay. Now, is everybody in the
12 litigation department in the call center technically
13 of that department? Can anybody in the litigation
14 center make calls on an account?

15 A But only on the accounts that are placed
16 in the litigation department.

17 Q Right. Okay. So that was my question.
18 I'm going to try to clarify it again.

19 A Okay

20 Q I understand you have roughly 280
21 people in the litigation department. Is that
22 accurate?

23 A Sounds about right. Yes.

24 Q And how many of those people are in the
25 call department?

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1 A I believe -- I think if I saw the answer
2 we gave, that has the exact number. I believe that's
3 the number of agents. And then there's some number
4 of attorneys over and above that number.

5 Q If I recall correctly, I believe PRA in
6 its responses to discovery identified 280 employees
7 of the litigation department, and of those 54 were
8 attorneys.

9 A Okay. Then that's --

10 Q Does that --

11 A That's what it is.

12 Q So are you saying that of those 280
13 people, of the 54 who are attorneys, the rest are in
14 the call center?

15 A Yes.

16 Q I understand. Okay.

17 Other than the policies and procedures
18 document we just discussed and my client's account
19 notes or records, did you review any other documents?

20 A I reviewed what's called a user guide
21 that's published by the information technology
22 department that discusses the systemic process that's
23 used to place accounts into the legal workflow.

24 Q Okay.

25 A It's a technical guide.

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1 correct?

2 A No. It says, Your first payment must be
3 received in our office no later than January 5, 2015.

4 Q Okay.

5 A Unless I'm looking at it wrong. Yeah.

6 Q Do you know approximately when that
7 letter was mailed to my client?

8 A Well, it's dated December 8th, 2014.

9 Q Is it PRA's practice to mail it the same
10 day it's dated? The day after? I mean how does that
11 work?

12 A Well, a file is sent to the letter
13 vendor, and then it's dated the day that they print
14 and mail it. So it would have been put in the mail
15 on the 8th.

16 Q I understand. Okay. So this letter
17 goes out to my client on December 8th. And it says
18 the first payment needs to be received by January 5,
19 2015.

20 A Yes.

21 Q Do you know if a payment was received
22 before January 5, 2015?

23 A There was no payment received.

24 Q And again is there something in PRA's
25 computer system or scheduling that tells PRA, hey, no

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1 payment was received, it's time to send another
2 letter?

3 A What happens is thirty days after this
4 letter is sent out, if the account is still in the
5 legal department and no payment has been received, it
6 will send the LL2 letter.

7 Q What is the LL2 letter?

8 A It would have been the other exhibit you
9 have. Should be the other letter you have. The
10 second notice.

11 MR. ZELMAN: All right. So we'll mark
12 that as Plaintiff's Exhibit C.

13 (Marked by the court reporter as
14 Exhibit C.)

15 BY MR. ZELMAN:

16 Q And I'm just going to hand that to you.
17 And that's a collection letter mailed by PRA to my
18 client dated January 6, 2015. Is that the LL2 letter
19 you were referring to?

20 A Yes. It has the code right above the
21 address box.

22 Q Oh, I see.

23 A Yeah. That's how we know what it is.

24 Q I got you. Okay. Now, in between

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1 sending out -- Let me backtrack for a second. If
2 that's the LL2 letter, am I correct in assuming that
3 what's been marked Exhibit B is an LLI letter?

4 A Yes.

5 Q So between sending out the LLI letter
6 and the LL2 letter, I mean did anybody at PRA review
7 my client's file to determine whether another letter
8 should go out or was it just automatic, no payment is
9 received, LL2 letter goes out?

10 A It's a systemic process that's thirty
11 days from the date of the first -- or -- Yeah.
12 Thirty days from the date of the first letter, it's
13 triggered by a systemic process based on there being
14 no payments on the account and the account still
15 being in a legal status.

16 Q I understand. And then there is a third
17 letter issued on this account; is that correct?

18 A Not to my knowledge.

19 MR. ZELMAN: Let me make sure I'm not
20 making a terrible mistake. Let's mark this as
21 Plaintiff's Exhibit D.

22 (Marked by the court reporter as
23 Exhibit D.)

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1 BY MR. ZELMAN:

2 Q I'm going to ask you to take a look at
3 this letter, which is dated January 6, 2015.

4 A It's the same letter as the --

5 Q It is the same letter, right?

6 A Uh-huh.

7 Q It just looks very different for some
8 reason.

9 A It's photocopied bigger.

10 MR. ANTHONY: For the record, could you
11 say as to which one it's the same as?

12 THE WITNESS: Oh. So Exhibit C is the
13 same as Exhibit D. And there's codes at the
14 top of the Exhibit D that if you had the same
15 codes on C, the way it was photocopied you
16 could actually match it up and tell exactly.
17 But it's the same exact letter.

18 BY MR. ZELMAN:

19 Q So C and D are the same? It's just
20 that's a weird photocopy of that, right?

21 A That's right.

22 Q I wasn't sure about that, so that
23 clarifies that. Excellent.

24 One moment.

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1 Okay. Now, PRA sends LL1, and it says
 2 first payment must be received by January 5, 2015.
 3 No payment is received. PRA sends LL2 giving a
 4 deadline of -- was it February 5th, 2015?

5 A Yes.

6 MR. ANTHONY: Object to the form of the
 7 question.

8 BY MR. ZELMAN:

9 Q Well, here is the question. The
 10 question is was there a payment received before
 11 February 5, 2015?

12 A No.

13 Q What, if anything, happened on the
 14 account after that date?

15 A After which date?

16 Q After February 5, 2015.

17 A That's pretty broad. I'm not sure what
 18 you're asking.

19 Q Okay. I can narrow it down for you.

20 You said thirty days after that first
 21 letter went out, systemically another letter goes out
 22 if no payment is received. Correct?

23 A Correct.

24 Q Is there another systemic follow-up of

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1 any sort thirty days after LL2?

2 A Sixty days after the LL2, the account is
 3 considered eligible for legal placement with an
 4 attorney. And then this account I believe was placed
 5 in March of 2015 with an attorney for suit.

6 Q Do you know what date in March?

7 A I don't remember the exact date, but you
 8 have it in the account notes. If you want to show me
 9 the notes, I can show you where it is.

10 Q Sure. And that would be sixty days
 11 after the letter was issued, so that would be sixty
 12 days after January 6, 2015?

13 MR. ANTHONY: Object to the form of the
 14 question.

15 A It's a systemic process, so it could be
 16 plus or minus a few days, but generally that's the
 17 rule, sixty days.

18 Q Okay. I know we're skipping around here
 19 a lot, but I'd rather just keep a flow of the
 20 questions going, so I will hand you the account
 21 notes.

22 A Okay.

23 MR. ZELMAN: Let's mark this as --
 24 I guess we used D for no good reason, so
 25 let's --

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1 (Discussion off the record concerning
 2 marking of exhibits.)

3 MR. ANTHONY: And just for the record,
 4 Exhibit B is marked as PRA Pollak 000020 to
 5 -21.

6 Exhibit B is marked PRA -- Exhibit C is
 7 marked PRA Pollak 000022 to -23.

8 And Exhibit D is not marked with a PRA
 9 Bates label number.

10 (Exhibit E was marked by the court
 11 reporter.)

12 BY MR. ZELMAN:

13 Q So I'm going to hand you what's been
 14 marked as Plaintiff's Exhibit E, which appear to be
 15 the account notes from my client's records. It's PRA
 16 000029 through -31. I know there was two versions of
 17 these issued, so these are the unredacted notes.

18 Are those the account notes you were
 19 referring to?

20 A Yes.

21 Q Looking at those, does that tell you
 22 what date my client's account was referred for -- as
 23 eligible for litigation?

24 A February --

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1 MR. ANTHONY: Object to the form of the
 2 question.

3 A February 18, 2015, it was placed in
 4 our -- placed with an attorney. Well, actually
 5 February 17th. The note is dated February 18th.
 6 It's a little lag in how the notes get updated. But
 7 that's when it was placed with an attorney.

8 BY MR. ZELMAN:

9 Q And where do you see that on there?

10 A Here. (Indicating)

11 Q What are you pointing to? Let me see.

12 A Acknowledgement. PDATE. 2-17-15.

13 XLOADED. Account loaded in CLS.

14 Q And what does that mean?

15 A That means it was loaded in our what's
 16 called CLS. I'm not quite clear what that acronym
 17 is, but it's where accounts go when they're ready to
 18 be placed with an attorney for review.

19 Q Do you know why it was placed on that
 20 date?

21 A It's about sixty days from that LL2
 22 date.

23 Q I thought the LL2 date is January 5,
 24 2015.

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33

1 A February, March. So it's a little bit
2 earlier. Yeah. I'm not sure.

3 Q Do you know if there was a particular
4 reason why it was placed earlier than the sixty days
5 or does it just happen from time to time?

6 A No. It's whenever the process is ran.

7 Q Okay. And what happens when a
8 collection account is placed with the -- Well, it was
9 already placed with the litigation department; is
10 that correct?

11 A Prior to that, yes.

12 Q But on this date it just becomes
13 eligible for litigation?

14 A Well, it gets --

15 MR. ANTHONY: Objection to the form of
16 the question.

17 Go ahead.

18 A It gets assigned to an attorney for
19 review.

21 BY MR. ZELMAN:

22 Q Did it get assigned to an attorney on
23 February 17th?

24 A Yes.

25 Q Do your account notes tell you which

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34

1 attorney that was?

2 A No.

3 Q Do you have anything that would tell you
4 which attorney that was?

5 A Well, if you -- on the PRAnet page, the
6 screen shots, you would need the history of what's
7 called the responsibility, and it shows codes for
8 what firm it would have gone to, whether it was
9 internal or external.

10 Q So I have what I think you're
11 referring to, and I'm going to mark it as Plaintiff's
12 Exhibit F. And I'll give it to you to see if what
13 you're referring to is on there. I'm not sure that
14 it is.

15 (Exhibit F was marked by the court
16 reporter.)

18 BY MR. ZELMAN:

19 Q So I'm handing you what's been marked
20 Plaintiff's Exhibit F. It appears to be the PRAnet
21 records. It's marked PRA Pollak 000014 through -16.

22 Are those the documents you're referring
23 to?

24 A Yes. TWACLS means it's an internal
25 attorney.

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35

1 Q Do you know which one?

2 A Specifically I can't remember the
3 attorney's name.

4 Q Is there anything that would refresh
5 your recollection as to which attorney that was?

6 A There's nothing here.

7 Q And do you have anything in your office
8 or in PRA's records which would provide that name?

9 A Yes.

10 Q And what would that be?

11 A Well, I think we could just check with
12 the managing attorney for this region and ask which
13 attorney worked on the case.

14 Q And who is the managing attorney for
15 this region?

16 A I don't remember the name.

17 Q Okay. So just going back -- I think we
18 got a little sidetracked trying to identify this
19 attorney -- but I asked you whether the account was
20 referred to an attorney on February 17th. You
21 identified that it was.

22 My next question to you is then when was
23 a decision made to file a suit on this account?

24 A On March 18th, it was -- the attorney
25 approved the account for suit. Actually on

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36

1 March 17th. The note posted on March 18th.

2 Q And do you know which attorney approved
3 it for suit? Or it's the same?

4 A I don't remember off the top of my head.
5 Q Okay. Would it be the same attorney who
6 was assigned to it on February 17th?

7 A I'm not sure.

8 Q Do you know when suit was actually filed
9 on this account?

10 A I would have to say it was the end of
11 March because that's when the court fees were posted,
12 but I am not sure if I could tell the exact date off
13 of these notes. But it would have been the end of
14 March. March 31st is when the court fees were
15 drafted.

16 Q What does that mean when the court fees
17 were drafted?

18 A Well, presumably to file the suit. It
19 would have been the court costs. Right?

20 Q Are you saying March 30th is the date
21 that the check was issued to pay for the court costs?

22 A That's what it looks like, yes.

23 March 31st.

24 Q Can I just get the top page back for one
25 moment? I just note that there is an entry on here

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dated April 3, 2015, which says file fee, file suit.
Do you see that?
A Yes.
Q What, if anything, does that tell you?
A I'm not sure. That could have been the actual date. I mean that's within four days. There could have been a weekend in there. I'm not sure.
Q Okay.
A So it would have been possibly the very beginning of April.
Q Do you know the date that a lawsuit was actually filed on this account?
A No.
Q Okay. As part of your duties and responsibilities as AVP of Portfolio Strategy, do you ever review court records?
A No.
Q As part of your review of the file for today's deposition, did you review my client's court records?
A No.
Q Are you an attorney?
A No.
Q Prior to preparing for today's deposition, have you reviewed my client's file in

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the past?
A Other than to prepare for the deposition, no.
Q Okay. According to the account notes in front of you, did anybody review my client's file in between LL2 and LL1 being issued, that thirty-day period in between?
A This didn't have any notes, so I would say no.
Q Did anybody review the file before LL1 was issued?
A What do you mean review the file?
Q Meaning -- I'm trying to drill down to how the decision was made to issue the LL1 letter on my client's account. Do you know if there was some sort of decision-making process at PRA that would result in LL1 being issued?
A There's a systemic process that results in it being issued.
Q What does that mean?
A So accounts are selected for legal collections. This was placed in legal collections on December 5th, and as a result of that the LL1 was sent.
Q And when you say legal collections, it

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1 was in collections with PRA before that date; is that
2 correct?
A Correct.
Q And I'm assuming those weren't illegal
3 collections, so my question is what does it mean
4 being assigned to legal collections?
A Legal with a capital L. So litigation
5 department.
Q Okay. And do you know who made the
6 decision to transfer my client's file to the Legal,
7 with a capital L, department?
A There's not a person that individually
8 makes a decision on individual accounts. So it's a
9 systemic process that selects the accounts and places
10 them into legal.
Q How does that happen?
A So accounts are scored, and then based
11 on their eligibility for meeting the balance and
12 other criteria for legal collections, they're placed
13 into a legal status.
In Exhibit F you'll see status LEGL.
14 That denotes legal status. And at that point,
15 they're in a prelitigation stage, and they're sent
16 the LL1 and the LL2 letter. And then if no payments
17 are received, that's when it will get assigned to an

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attorney.
Q Okay. Do you know how long my client's file was with PRA before it was assigned to the legal department?
A Oh, here it is. It was purchased August 25th of 2014.
Q That's when it was purchased. Do you know when PRA actively started trying to collect it either through calls or letters?
A It would have been approximately the end of September 2014. First we send an initial notice letter, and shortly thereafter we'll commence calling and lettering the account for collection.
Q Okay. So my client's account is in collections from September 2014. And in December of 2015, it gets transferred to the -- well, not December 2015. December 2014 it got transferred to the legal department, right?
A Yes.
Q How often does the system make this analysis of, All right, this meets the criteria to transfer it to the legal department, let's transfer it?
A Twice a month.
Q Okay. So it was in collections for

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41

1 about three months, and then the system decided,
 2 Let's send this to the legal department?

3 A Correct.

4 Q And there was no human involvement in
 5 that other than the system?

6 A Well, there's people who, you know, run
 7 scripts that perform the mechanical aspect of it.

8 Q Right. Okay. No attorney looked at the
 9 file and said, Let's send this to the legal
 10 department; is that correct?

11 A That's correct.

12 MR. ZELMAN: Okay.

13 Okay. Let's mark this as -- what are
 14 we up to? G? -- Plaintiff's Exhibit G.

15 This is the Defendant's Responses to
 16 Plaintiff's First Set of Interrogatories.

17 Okay? It doesn't have a Bates stamp.

18 (Marked by the court reporter as
 19 Exhibit G.)

20 BY MR. ZELMAN:

21 Q So I'm going to hand this to you to take
 22 a look at.

23 A Okay.

24 Q Take a moment to look through the

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42

1 document because it's kind of extensive, but just
 2 have you seen this document before?

3 A Yes.

4 MR. ANTHONY: And for the record is it
 5 all the pages?

6 MR. ZELMAN: Yeah. We're not going to
 7 go through all of them, but it's here for sake
 8 of completeness.

9 BY MR. ZELMAN:

10 Q Have you had a chance to look through
 11 the document?

12 A Yes.

13 Q Excellent. Let me have it for one
 14 moment and I'll point you in the right direction
 15 here.

16 Interrogatory 18 requested that the
 17 defendant state the defendant's policies that are
 18 involved in making the decision to institute a
 19 collection lawsuit on a specific collection account.

20 In response, it's an extensive two-
 21 page response, but it gives a number of factors
 22 that PRA considers including the amount of the
 23 underlying debt at issue, whether the action is
 24 within the applicable statute of limitations and

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43

1 so on.

2 I'm going to give it to you to look at
 3 so you know what I'm talking about.

4 My question is there's like over
 5 fifteen factors over there that go into the
 6 consideration of whether a particular account should
 7 be sent to be sued upon. If you can just look at
 8 that. Does that seem accurate to you? These
 9 different categories? Is this the factors that go
 10 into consideration?

11 A Yes.

12 Q Okay. And so my next question to you
 13 is LL1 goes out. Right? And we have all these
 14 factors that are considered whether we sue or not.
 15 Does anybody get sued after LL1 goes out before LL2
 16 goes out?

17 A To the first part of what you said,
 18 these factors go into deciding whether the account
 19 gets placed in legal, which causes the LL1 to go
 20 out. And then do people get sued after the LL1?
 21 The answer would be no. I mean we try to give at
 22 least two chances to work something out.

23 Q Okay. Just to clarify one thing you
 24 just said. Can you read the Interrogatory 18. Not
 the response. The two-line interrogatory.

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44

1 A Okay.

2 Q Do you see where it says 18?

3 A Uh-huh. Yes.

4 Q My understanding of what the
 5 interrogatory asked is, State what factors go into
 6 consideration of whether to sue on a specific
 7 account.

8 A Correct. But it's the same
 9 consideration that we use to put them into legal
 10 to begin with, because if we can't sue them then we
 11 wouldn't put them in legal.

12 Q I understand that, but here's the
 13 question I'm asking. All these factors go into
 14 consideration of whether to put them in the legal
 15 department or not, right?

16 A Correct.

17 Q And then these factors are again
 18 considered before actually filing suit? Is that what
 19 you're saying?

20 A Correct.

21 Q So do you have files that after
 22 consideration of these factors get assigned to
 23 the legal department but don't pass the test to
 24 get sued?

25 A There's a couple things that would

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45

1 result in someone not getting sued. They could
 2 work out payment arrangements prior to suit. They
 3 could file for bankruptcy. We could be notified
 4 they're deceased. They could, you know, move. We
 5 could have mail returned and we don't know where
 6 they're at. And then the attorney as well is
 7 looking at that file to determine if it's suit
 8 eligible. Ultimately the attorney makes that
 9 decision based on the factors they have in front of
 10 them at the time.

11 Q Okay. And so going back to my earlier
 12 question now that you clarified that response, the
 13 system systematically analyzes whether someone should
 14 be sent to the legal department; and then if it
 15 determines it should, it issues LL1, correct?

16 A Correct.

17 Q And after LL1 expires, the system will
 18 systematically send LL2?

19 A Correct.

20 Q And just to clarify, in between LL1
 21 and LL2 the system will never stop the system and say
 22 we're going to sue now; is that correct?

23 MR. ANTHONY: Object to the form of the
 24 question.

25 A No. I mean -- I'm sorry. Can you

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46

1 repeat that?

2 BY MR. ZELMAN:

3 Q If I didn't clarify it right -- Okay. I
 4 believe you answered it, but it wasn't clear because
 5 there was confusion about what Interrogatory 18 was
 6 asking, so I'm going to ask it again.

7 If somebody doesn't make their payment
 8 by the time LL1 expires, the system will send out
 9 LL2, correct?

10 A Correct.

11 Q Does it happen in every case or will
 12 sometimes the debtor be sued if LL1 expires and
 13 there's no payment?

14 A No. The debtor wouldn't -- The debtor
 15 would always get an LL2 if there's no payment.

16 Q Okay. That was my question. Thank
 17 you.

18 MR. ZELMAN: Frankly -- Off the record
 19 for one moment.

20 (Discussion off the record)

21 MR. ZELMAN: We can go back on the
 22 record.

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47

1 BY MR. ZELMAN:

2 Q Okay. I'm done with this for now. I
 3 want to go back to the account notes.

4 Oh, thank you. I'll put that in there.
 5 I want to go back to the account notes
 6 that have been marked as Plaintiff's Exhibit E. At
 7 some point in this litigation -- actually at some
 8 point before this litigation was commenced, my client
 9 retained an attorney who contacted PRA; is that
 10 correct?

11 A Yes. I see third-party representation
 12 noted on April 3rd.

13 Q Is April 3rd the first date that PRA was
 14 notified that my client was represented by counsel?

15 A The first time it's noted here. I'm not
 16 sure when PRA was first notified other than the
 17 account notes.

18 MR. ANTHONY: When you say, Here, you're
 19 referring to Exhibit E?

20 THE WITNESS: Oh, I'm sorry. Exhibit E.
 21 MR. ANTHONY: And then reference the
 22 line.

23 THE WITNESS: Okay. It's a note dated
 24 April 3rd, 2015, updated by the initials SKW,
 25 and it says third-party representation for

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S. Guevara

48

1 Debtor 2 -- or N2. And the next note says the
 2 same thing. Third-party representation for
 3 N1, which means Debtor 1.

4 BY MR. ZELMAN:

5 Q And from your review of the account
 6 notes, you don't see any other attorney
 7 representation before that time; is that correct?

8 MR. ANTHONY: Of the plaintiff?

9 BY MR. ZELMAN:

10 Q Of the plaintiff obviously.

11 A Correct. I don't see any other notes to
 12 that effect.

13 Q Okay. Now, I can tell you from what's
 14 been disclosed in discovery that a collection lawsuit
 15 was filed against my clients on April 7, 2015.

16 And my question to you is do you
 17 know who was served with that collection lawsuit?
 18 Was it the plaintiff's attorney or was it the
 19 plaintiffs?

20 A I don't see that noted here.

21 Q Would that be somewhere in the
 22 collection file?

23 A It's possible.

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